

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.1477 OF 2021

Suman Sundar Patra

....

Petitioner

Mr. Nilakantha Jujharsingh, Advocate

-versus-

**Er. Suresh Mishra,
Engineer-in-Chief, Rural
Works, Bhubaneswar**

....

Opp.party/contemnor

Mr. P.K.Mohanty, ASC

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S.SAHOO**

ORDER

02.12.2022

Hybrid Mode

Order No.

05.

1. By filing the present petition, the petitioner alleges non-compliance of the order passed by this Court dated 02.03.2020 disposing of W.P.(C) No.20984 of 2015 and prays the Court to proceed against the opposite party as per the provisions of the Contempt of Courts Act.

2. An incumbent-Superintending Engineer, Rural Works Division, Puri has filed a compliance affidavit dated 17.11.2022 which forms part of the record. Regarding compliance of the order dated 02.03.2020 disposing of W.P.(C) No.20984 of 2015, at paragraphs-4, 5, 6, 7 and 11 of the said affidavit, the following has been stated :

“4. That it is respectfully submitted that for compliance of the kind order of the Hon’ble Court dated 02.03.2020, the opposite party vide letter no.26833 dated 03.09.2022 fixed the date of hearing on the grievance of the petitioner on 05.09.2022 at 4.00 P.M. and instructed the Superintending Engineer, Central Circle, Rural Works,

Bhubaneswar and the Chief Engineer (PMGSY) to remain present. Copy of the letter no.26833 dated 03.09.2022 is annexed herewith as Annexure-A.

That it is most humbly and respectfully submitted that for compliance of order dated 11.04.2022 passed by this Hon'ble Court, a Demarcation Case bearing No.27 of 2022 was registered by the opposite party no.1; wherein notices were issued to the petitioner along with alleged encroachers on 17.6.2022 for demarcation of the village road. Accordingly, on instruction of opposite party no.1, the Additional Tahasildar, Naugaon, the opposite party no.2 (Amin concerned) and other staff visited the spot for demarcation. The demarcation was conducted on 23.6.2022; wherein it was found that the village road has not been encroached by anybody. During demarcation the villagers have also stated that the village road has not been encroached by anybody. A copy of the original R.I. Report dated 23.6.2022 along with English translated copy of the same is enclosed herewith as Annexure-A.

5. *That, on the basis of above letter dated 03.09.2022 (vide Annexure-A), the Chief Engineer (PMGSY), the Chief Construction Engineer, R.W. Circle, Bhubaneswar and the Superintending Engineer, R.W. Division, Bhubaneswar in charge of the R.W. Division, Puri appeared on 05.09.2022 at 4.00 P.M. for hearing. The Superintending Engineer, R.W. Division, Puri appraised the detailed status of development regarding payment of labour escalation claim of the petitioner and informed that after receipt of letter no.20928 dated 06.11.2020 from the Chief Engineer (PMGSY) regarding submission of representation dated 23.10.2020 by the petitioner on the above matter, the petitioner was requested vide letter no.3340 dated 12.5.2022 to submit the required documents as per R.D. Department Memorandum No.28585300182013/RD dated 03.03.2017. Copy of the letter no.20928 dated 06.11.2020 issued by the Chief Engineer (PMGSY) is annexed herewith as Annexure-B, Copy of the letter no.3340 dated 12.5.2022 is annexed herewith as Annexure-C and copy of the R.D. Department Memorandum no. No.28585300182013/RD dated 03.03.2017 is annexed herewith as Annexure-D.*

6. *That pursuant to the letter dated 12.5.2022 vide Annexure-C above, the petitioner vide his letter dated 26.5.2022 submitted related documents. In order to verify the authenticity of the Labour License submitted by the petitioner on 26.5.2022, the Division Office, Puri vide letter*

no.3712 dated 01.06.2022 requested the District Labour Officer, Puri to examine the said document for its authenticity. Copy of the Officer letter no.3712 dated 01.06.2022 address to the District Labour Officer, Puri is annexed herewith as Annexure-E.

7. That with reference to letter dated 01.06.2022 under Annexure-E above, the District Labour Officer, Puri vide letter no.1163 dated 25.08.2022 informed that no contract labour license has been issued in favour of the petitioner to execute the work PMGSY Package No.OR-26143 under the principal employer, i.e. Executive Engineer, R.W. Division, Puri. The District Labour Officer, Puri has further initiated the following facts.

“As such it is crystal clear that Sri Suman Sundar Patro has not obtained any License from the Licensing Officer-cum-District Labour Officer under C.L.(R&A) Act 1970 to execute the contract work PMGSY Package No.OR-26-143”. Copy of letter no.1163 dated 25.8.2022 of the District Labour Officer, Puri is annexed herewith as Annexure-F

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11. That after examining all the records available and the position of law narrated above, it is found that labour license submitted by petitioner being not applicable for engagement of labourer for civil works, and petitioner having failed to comply the modality fixed by the R.D. Department Memorandum dated 03.03.2017, the claim of petitioner has got no merit for consideration and was accordingly rejected. The above proceeding of hearing was communicated to the petitioner vide Memo No.29347 dated 27.09.2022. Copy of proceeding of hearing dated 26.9.2022 conducted by the Engineer-in-Chief, Rural Works, Odisha is annexed herewith as Annexure-K and copy of the Memo no.29347 dated 27.09.2022 addressed to petitioner along with postal receipt is annexed herewith as Annexure-1.”

3. The writ petition, i.e., W.P.(C) No.20984 of 2015 was disposed of by order dated 02.03.2020 without expressing any opinion regarding merits of the case and in compliance of the said order, the authorities have taken all necessary steps to determine the claims

of the petitioner which has led to a finding as indicated in paragraph-11 of the compliance affidavit that the modality fixed by the Rural Development Department, Govt. of Odisha Memorandum dated 03.03.2017 for consideration and disposal of claims like that has been raised by the petitioner, could not be complied with by the petitioner.

4. In considered view of this Court, the order dated 02.03.2020 disposing of W.P.(C) No.20984 of 2015 has been substantially complied with. The further dispute raised by the petitioner is beyond the scope of the present adjudication.

The contempt petition is accordingly dismissed having been rendered infructuous.

(Jaswant Singh)
Judge

(M.S.Sahoo)
Judge

2nd December, 2022
Cuttack

Gs/dutta